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EASTERN DISTRICT OF TEXAS

LANCE MIGLIACCIO,		
Petitioner,	8 8 8	
versus		CIVIL ACTION NO. 1:12-CV-496
CARLOS RIVERA,	8 8	
Respondent.	8 §	

MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner Lance Migliaccio, an inmate confined at the Federal Correctional Institution in Beaumont, Texas, proceeding *pro se*, filed this petition for writ of habeas corpus. The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, for consideration pursuant to applicable laws and orders of this court.

The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge concerning the petition. The magistrate judge recommends the petition be dismissed.

The court has received the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Petitioner filed objections to the Report and Recommendation.

The court has conducted a *de novo* review of the objections asserted by petitioner. After careful consideration, the court is of the opinion that the objections are without merit. Petitioner may not challenge his conviction or sentence in a petition filed pursuant to 28 U.S.C. § 2241 because his grounds for review do not meet the requirements set forth in *Reyes-Requena v. United States*, 243 F.3d 893 (5th Cir. 2001). Petitioner also argues that the writ of habeas corpus has been improperly suspended if relief is not available to him. This assertion lacks merit because the savings clause of 28 U.S.C. § 2255 does not violate the Suspension Clause of the United States Constitution. *Wesson v. U.S. Penitentiary, Beaumont*, 305 F.3d 343, 346-47 (5th Cir. 2002).

ORDER

Accordingly, petitioner's objections are **OVERRULED.** The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment shall be entered dismissing the petition.

SIGNED at Beaumont, Texas, this 12th day of April, 2013.

Marcia A. Crone

MARCIA A. CRONE

HINTED STATES DISTRICT II

UNITED STATES DISTRICT JUDGE